



Brad Henry
Governor

**STATE OF OKLAHOMA
SECRETARY OF AGRICULTURE**

Terry L. Peach
Cabinet Secretary

September 30, 2004

Ed Fite, Administrator
Oklahoma Scenic Rivers Commission
P.O. Box 292
Tahlequah, Oklahoma 74465-0292



Dear Administrator Fite:

Thank you for your letter of August 24, 2004. We acknowledge the Oklahoma Scenic Rivers Commission's resolve to bring the restriction and use of commercial fertilizer in sensitive watersheds to the forefront of public debate. We agree that our state's waters and designated scenic river areas are valuable resources of the state that should be protected and preserved.

The Arkansas Legislature provided a statutory framework with guidelines for the proposed rules you attached. You requested the Department to promulgate rules "mirroring" the proposal in Arkansas. However, the Oklahoma Legislature has yet to provide the Department with clear authority to draft rules in this area. In fact, what little reference is made in the law regarding fertilizer application is ambiguous and vague. A quick look at the Oklahoma Fertilizer Act reveals that virtually all of the language, including the definitions, is aimed at the manufacturers and distributors of commercial fertilizers. The Act, as written, is a consumer protection law and does not provide any guidance to the Department on the application of nutrients for soil fertility and plant growth.

As you are aware, the Department can promulgate rules pursuant to its environmental jurisdiction found in The Oklahoma Environmental Quality Act. In 1997, the Department did just that in the area of poultry waste regulation prior to the passage of Senate Bill 1170 in 1998. Unlike Oklahoma's fertilizer law, no ambiguities or vagueness issues existed in the area of poultry waste regulation.

This is certainly an issue that needs to be debated between citizens, state officials, the legislature, and the farmers and ranchers of Oklahoma. Any legislation that clearly delineates the Department's authority to restrict, regulate, or manage the use of commercial fertilizer in sensitive watersheds will result in the promulgation of rules.

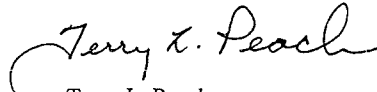
PO Box 528804, Oklahoma City, OK 73152-8804 • (405) 521-3864 • Fax: (405) 522-0909

OSRC-004-0004284

We wholeheartedly agree that Oklahoma's Scenic Rivers are a great asset for this state and we constantly engage in efforts to protect these areas. The Department and its staff are dedicated to implementing and enforcing any fertilizer laws passed and adopted by the State Legislature and the Office of the Governor.

If I may be of any further assistance, please let me know.

Sincerely,

A handwritten signature in black ink that reads "Terry L. Peach". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Terry L. Peach
Secretary of Agriculture

cc: State Board of Agriculture Members
Honorable Miles Tolbert, OSE
Dick Seybolt, Chairman AR-OK AR River Compact Commission
Kelly Hunter-Burch, OAAG
Mike Thralls, OCC
Steve Thompson, ODEQ
Duane Smith, OWRB
Randy Young, ASWCC
Marcus Devine, ADEQ
Mason Mungle, OFU
Marla Peek, OFB

OSRC-004-0004285